

CREATION OF NEW SCHOOL DISTRICT**AMENDMENTS**

2008 GENERAL SESSION

STATE OF UTAH

LONG TITLE**General Description:**

This bill modifies provisions related to the creation of a new school district.

Highlighted Provisions:

This bill:

- ▶ adds an exception to the requirement that a proposed new school district include the boundaries of each city or town in order to allow a city or town to include some but not all of the area within its boundaries if the portion to be included is within the same school district as the other interlocal agreement participants and the area to be excluded is in another school district;
- ▶ provides that a city or town located in more than one county that participates in an interlocal agreement to create a new school district as to some but not all of the area within the city or town under the preceding exception may not be considered to cross county lines for purposes of a prohibition against a proposed new school district crossing county lines;
- ▶ clarifies that a new school district may be created from multiple existing school districts;
- ▶ clarifies the election provisions applicable to an election for the creation of a new school district; and
- ▶ modifies the time within which requests for the creation of a new school district are required to be certified.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides an immediate effective date.

Utah Code Sections Affected:

32 AMENDS:

33 **53A-2-118**, as last amended by Laws of Utah 2007, Chapter 215

34 **53A-2-118.1**, as last amended by Laws of Utah 2007, Chapter 215

35

36 *Be it enacted by the Legislature of the state of Utah:*

37 Section 1. Section **53A-2-118** is amended to read:

38 **53A-2-118. Creation of new school district by county legislative body -- Initiation**
39 **of process -- Procedures to be followed.**

40 (1) A ~~[county legislative body may create a]~~ new school district may be created from
41 ~~[an] one or more existing school [district] districts~~, as provided in this section~~[- if the area of~~
42 ~~the new school district is within or, under Subsection 53A-2-118.1(2)(b)(ii), considered to be~~
43 ~~within the geographical boundaries of the county]~~.

44 (2) (a) The process to create a new school district may be initiated:

45 (i) through a citizens' initiative petition;

46 (ii) at the request of the board of the existing district or districts to be affected by the
47 creation of the new district; or

48 (iii) at the request of a city within the boundaries of the school district or at the request
49 of interlocal agreement participants, pursuant to Section 53A-2-118.1.

50 (b) (i) ~~[A]~~ Each petition submitted under Subsection (2)(a)(i) ~~[must]~~ shall be signed by
51 qualified electors residing within the geographical boundaries of the proposed new school
52 district equal in number to at least 15% of the number of electors in the area who voted for the
53 office of governor at the last regular general election.

54 (ii) ~~[A]~~ Each request or petition submitted under Subsection (2)(a) shall:

55 (A) be filed with the ~~[county]~~ clerk of each county in which any part of the proposed
56 new school district is located;

57 (B) indicate the typed or printed name and current residence address of each governing
58 board member making a request, or registered voter signing a petition, as the case may be;

59 (C) describe the proposed new school district boundaries; and

60 (D) designate up to five signers of the petition or request as sponsors, one of whom
61 shall be designated as the contact sponsor, with the mailing address and telephone number of
62 each.

(c) A signer of a petition under Subsection (2)(a)(i) may withdraw or, once withdrawn, reinstate the signer's signature at any time before the filing of the petition by filing a written withdrawal or reinstatement with the county clerk.

(d) The process under Subsection (2)(a)(i) may only be initiated once during any four-year period.

(e) A new district may not be formed pursuant to Subsection (2)(a) if the student population of the proposed new district is less than 3,000 or the existing district's student population would be less than 3,000 because of the creation of the new school district.

(f) Within 45 days after the filing of a ~~[request or]~~ petition under Subsection (2)(a)(i) or five days after the filing of a request under Subsection (2)(a)(ii) or (iii), the ~~[county]~~ clerk of each county with which a request or petition is filed shall:

(i) determine whether the request or petition complies with Subsections (2)(a), (b), (d), and (e), as applicable; and

(ii) (A) if the county clerk determines that the request or petition complies with the applicable requirements:

(I) certify the request or petition and deliver the certified request or petition to the county legislative body; and

(II) mail or deliver written notification of the certification to the contact sponsor; or

(B) if the county clerk determines that the request or petition fails to comply with any of the applicable requirements, reject the request or petition and notify the contact sponsor in writing of the rejection and reasons for the rejection.

(g) If the county clerk fails to certify or reject a request or petition within ~~[45 days after its filing]~~ the time specified in Subsection (2)(f), the request or petition shall be considered to be certified.

(h) (i) If the county clerk rejects a request or petition, the request or petition may be amended to correct the deficiencies for which it was rejected and then refiled.

(ii) Subsection (2)(d) does not apply to a request or petition that is amended and refiled after having been rejected by a county clerk.

(i) If a county legislative body receives a request from a school board under Subsection (2)(a)(ii) or a petition under Subsection (2)(a)(i) which is certified by the county clerk on or before December 1:

(i) the county legislative body shall appoint an ad hoc advisory committee, as provided by Subsection (3), on or before January 1;

(ii) the ad hoc advisory committee shall submit its report and recommendations to the county legislative body, as provided by Subsection (3), on or before July 1; and

(iii) if the ~~[county]~~ legislative body of each county with which a request or petition is filed approves a proposal to create a new district, the proposal shall be submitted to the respective county clerk to be voted on by the electors of ~~[the]~~ each existing district at the regular general or municipal general election held in November.

(3) (a) The ~~[county]~~ legislative body of each county with which a request or petition is filed shall appoint an ad hoc advisory committee to review and make recommendations on a request for the creation of a new school district submitted under Subsection (2)(a)(i) or (ii).

(b) The advisory committee shall:

(i) seek input from:

(A) those requesting the creation of the new school district;

(B) the school board and school personnel of ~~[the]~~ each existing school district;

(C) those citizens residing within the geographical boundaries of ~~[the]~~ each existing school district;

(D) the State Board of Education; and

(E) other interested parties;

(ii) review data and gather information on at least:

(A) the financial viability of the proposed new school district;

(B) the proposal's financial impact on ~~[the]~~ each existing school district;

(C) the exact placement of school district boundaries; and

(D) the positive and negative effects of creating a new school district and whether the positive effects outweigh the negative if a new school district were to be created; and

(iii) make a report to the county legislative body in a public meeting on the committee's activities, together with a recommendation on whether to create a new school district.

(4) For a request or petition submitted under Subsection (2)(a)(i) or (2)(a)(ii):

(a) The county legislative body shall provide for a 45-day public comment period on the report and recommendation to begin on the day the report is given under Subsection

(3)(b)(iii).

(b) Within 14 days after the end of the comment period, the [county] legislative body of each county with which a request or petition is filed shall vote on the creation of the proposed new school district.

(c) The proposal is approved if a majority of the members of the [county] legislative body of each county with which a request or petition is filed votes in favor of the proposal.

(d) If the proposal is approved, the [county] legislative body of each county with which a request or petition is filed shall submit the proposal to the county clerk to be voted on:

(i) by the legal voters of [the] each existing school district;

(ii) in accordance with the procedures and requirements applicable to a regular general election under Title 20A, Election Code; and

(iii) at the next regular general election or municipal general election, whichever is first.

(e) Creation of the new school district shall occur if a majority of the electors within both the proposed school district and [the] each remaining school district voting on the proposal vote in favor of the creation of the new district.

(f) [The] Each county legislative body shall provide notice of the action as required in Section 53A-2-101.5.

(g) If a proposal submitted under Subsection (2)(a)(i) or (ii) to create a new district is approved by the electors, the existing district's documented costs to study and implement the proposal shall be reimbursed by the new district.

(5) (a) If a proposal submitted under Subsection (2)(a)(iii) is certified under Subsection (2)(f) or (g), the [county] legislative body of each county in which part of the proposed new school district is located shall submit the proposal to the [county] respective clerk of each county to be voted on:

(i) by the legal voters residing within the proposed new school district boundaries;

(ii) in accordance with the procedures and requirements applicable to a regular general election under Title 20A, Election Code; and

(iii) at the next regular general election or municipal general election, whichever is first.

(b) (i) If a majority of the legal voters within the proposed new school district boundaries voting on the proposal at an election under Subsection (5)(a) vote in favor of the

156 creation of the new district:

157 (A) [~~the~~] each county legislative body shall, within 30 days after the canvass of the
158 election, file with the lieutenant governor the written notice required under Section
159 53A-2-101.5; and

160 (B) upon the lieutenant governor's issuance of the certificate under Section 67-1a-6.5,
161 the new district is created.

162 (ii) Notwithstanding the creation of a new district as provided in Subsection
163 (5)(b)(i)(B):

164 (A) a new school district may not begin to provide educational services to the area
165 within the new district until July 1 of the second calendar year following the election at which
166 voters approve creation of the new school district;

167 (B) a remaining district may not begin to provide educational services to the area
168 within the remaining district until the time specified in Subsection (5)(b)(ii)(A); and

169 (C) [~~the~~] each existing district shall continue, until the time specified in Subsection
170 (5)(b)(ii)(A), to provide educational services within the entire area covered by the existing
171 district as though the new district had not been created.

172 Section 2. Section **53A-2-118.1** is amended to read:

173 **53A-2-118.1. Option for school district creation.**

174 (1) After conducting a feasibility study, a city of the first or second class, as defined
175 under Section 10-2-301, may by majority vote of the legislative body, submit for voter approval
176 a measure to create a new school district with boundaries contiguous with that city's
177 boundaries, in accordance with Section 53A-2-118.

178 (2) (a) By majority vote of the legislative body, a city of any class, a town, or a county,
179 may, together with one or more other cities, towns, or the county enter into an interlocal
180 agreement, in accordance with Title 11, Chapter 13, Interlocal Cooperation Act, for the purpose
181 of submitting for voter approval a measure to create a new school district.

182 (b) (i) In accordance with Section 53A-2-118, interlocal agreement participants under
183 Subsection (2)(a) may submit a proposal for voter approval if:

184 (A) the interlocal agreement participants conduct a feasibility study prior to submitting
185 the proposal to the county;

186 (B) the combined population within the proposed new school district boundaries meets

187 the minimum population threshold for a city of the second class; and
188 (C) the new school district boundaries:
189 (I) are contiguous;
190 (II) do not completely surround or otherwise completely geographically isolate a
191 portion of an existing school district that is not part of the proposed new school district from
192 the remaining part of ~~the~~ that existing school district, except as provided in Subsection
193 (2)(d)(iii);
194 (III) include the entire boundaries of each participant city or town, except as provided
195 in Subsection (2)(d)(ii); and
196 (IV) subject to Subsection (2)(b)(ii), do not cross county lines.
197 (ii) For purposes of determining whether the boundaries of a proposed new school
198 district cross county lines under Subsection (2)(b)(i)(C)(IV) ~~[and Subsection 53A-2-118(1)]~~;
199 (A) a municipality located in more than one county and entirely within the boundaries
200 of a single school district is considered to be entirely within the same county as other
201 participants in an interlocal agreement under Subsection (2)(a) if more of the municipality's
202 land area and population is located in that same county than outside the county~~[-]; and~~
203 (B) a municipality located in more than one county that participates in an interlocal
204 agreement under Subsection (2)(a) with respect to some but not all of the area within the
205 municipality's boundaries on the basis of the exception stated in Subsection (2)(d)(ii)(B) may
206 not be considered to cross county lines.
207 (c) (i) A county may only participate in an interlocal agreement under this Subsection
208 (2) for the unincorporated areas of the county.
209 (ii) Boundaries of a new school district created under this section may include:
210 (A) a portion of one or more existing school districts; and
211 (B) a portion of the unincorporated area of ~~the~~ a county, including a portion of a
212 township.
213 (d) (i) As used in this Subsection (2)(d):
214 (A) "Isolated area" means an area that:
215 (I) is entirely within the boundaries of a municipality that, except for that area, is
216 entirely within a school district different than the school district in which the area is located;
217 and

(II) would, because of the creation of a new school district from the existing district in which the area is located, become completely geographically isolated.

(B) "Municipality's school district" means the school district that includes all of the municipality in which the isolated area is located except the isolated area.

(ii) Notwithstanding Subsection (2)(b)(i)(C)(III), a municipality may be a participant in an interlocal agreement under Subsection (2)(a) with respect to some but not all of the area within the municipality's boundaries if:

(A) the portion of the municipality proposed to be included in the new school district would, if not included, become an isolated area upon the creation of the new school district[-];
or

(B) (I) the portion of the municipality proposed to be included in the new school district is within the boundaries of the same school district that includes the other interlocal agreement participants; and

(II) the portion of the municipality proposed to be excluded from the new school district is within the boundaries of a school district that is different from the school district that includes the other interlocal agreement participants.

(iii) (A) Notwithstanding Subsection (2)(b)(i)(C)(II), a proposal to create a new school district may be submitted for voter approval pursuant to an interlocal agreement under Subsection (2)(a), even though the new school district boundaries would create an isolated area, if:

(I) the potential isolated area is contiguous to one or more of the interlocal agreement participants;

(II) the interlocal participants submit a written request to the municipality in which the potential isolated area is located, requesting the municipality to enter into an interlocal agreement under Subsection (2)(a) that proposes to submit for voter approval a measure to create a new school district that includes the potential isolated area; and

(III) 90 days after a request under Subsection (2)(d)(iii)(A)(II) is submitted, the municipality has not entered into an interlocal agreement as requested in the request.

(B) Each municipality receiving a request under Subsection (2)(d)(iii)(A)(II) shall hold one or more public hearings to allow input from the public and affected school districts regarding whether or not the municipality should enter into an interlocal agreement with

249 respect to the potential isolated area.

250 (C) (I) This Subsection (2)(d)(iii)(C) applies if:

251 (Aa) a new school district is created under this section after a measure is submitted to
252 voters based on the authority of Subsection (2)(d)(iii)(A); and

253 (Bb) the creation of the new school district results in an isolated area.

254 (II) The isolated area shall, on July 1 of the second calendar year following the election
255 at which voters approve the creation of a new school district, become part of the municipality's
256 school district.

257 (III) Unless the isolated area is the only remaining part of the existing district, the
258 process described in Subsection (4) shall be modified to:

259 (Aa) include a third transition team, appointed by the local school board of the
260 municipality's school district, to represent that school district;

261 (Bb) require allocation of the existing district's property among the new district, the
262 remaining district, and the municipality's school district;

263 (Cc) require each of the three transition teams to appoint one member to the
264 three-member arbitration panel, if an arbitration panel is established; and

265 (Dd) require the municipality's school district to bear 1/3 of the costs of arbitration.

266 (IV) The existing district shall continue to provide educational services to the isolated
267 area until July 1 of the second calendar year following the election at which voters approve the
268 creation of a new school district.

269 (3) (a) If a proposal under this section is approved by voters:

270 (i) an election shall be held on the June special election date, as provided in Section
271 20A-1-204, in the year following the election at which voters approved the creation of a new
272 school district, to elect:

273 (A) all members to the board of the new school district; and

274 (B) all members to the board of the remaining district;

275 (ii) school district property shall be divided between the existing school district and the
276 new school district as provided in Subsection (4);

277 (iii) transferred employees shall be treated in accordance with Sections 53A-2-116 and
278 53A-2-122; and

279 (iv) within one year after the new district begins providing educational services, the

superintendent of each remaining district affected and the superintendent of the new district shall meet, together with the Superintendent of Public Instruction, to determine if further boundary changes should be proposed in accordance with Section 53A-2-104 or Subsection 53A-2-118(2).

(b) Each member elected to a school district board of a new district and remaining district at an election under Subsection (3)(a)(i) shall take office on July 15 immediately following the election.

(c) (i) Subject to Subsection (3)(c)(ii), the terms of the initial members of the school district board of the new district and remaining district who are elected at an election under Subsection (3)(a)(i) shall be staggered and adjusted by the county legislative body so that:

(A) the school district board members' successors are elected at a future regular general election; and

(B) the terms of their successors coincide with the schedule of terms for school district board members established in Section 20A-14-202.

(ii) (A) The term of a member elected to a school district board at an election under Subsection (3)(a)(i) may not be less than 17 months.

(B) In order to comply with the requirements of Subsection (3)(c)(i), the term of a member elected to a school district board at an election under Subsection (3)(a)(i) held in an even-numbered year may exceed four years but may not exceed five years.

(d) (i) The term of each member of the school district board of the existing district terminates on July 15 of the second year after the election at which voters approve the creation of a new district, regardless of when the term would otherwise have terminated.

(ii) Notwithstanding the election of a board for the new district and a board for the remaining district under Subsection (3)(a)(i), the board of the existing district shall continue, until the time specified in Subsection 53A-2-118(5)(b)(ii)(A), to function and exercise authority as a board to the extent necessary to continue to provide educational services to the entire existing district as though the new district had not been created.

(iii) A person may simultaneously serve as a member of the board of an existing district and a member of the board of:

(A) a new district; or

(B) a remaining district.

(4) (a) Within 30 days after the canvass of an election at which voters approve the creation of a new school district under this section:

(i) a transition team to represent the remaining district shall be appointed by the members of the existing district board who reside within the area of the remaining district, in consultation with:

(A) the legislative bodies of all municipalities in the area of the remaining district; and

(B) the legislative body of the county in which the remaining district is located, if the remaining district includes one or more unincorporated areas of the county; and

(ii) another transition team to represent the new district shall be appointed by:

(A) for a new district located entirely within the boundaries of a single city, the legislative body of that city; or

(B) for each other new district, the legislative bodies of all interlocal agreement participants.

(b) The local board of the existing school district shall:

(i) within 30 days after the canvass of an election at which voters approve the creation of a new school district under this section, prepare an inventory of the existing district's assets and liabilities; and

(ii) within 45 days after the canvass, deliver a copy of the inventory to each of the transition teams.

(c) (i) (A) The transition teams appointed under Subsection (4)(a) shall, subject to Subsection (4)(c)(iii), determine the allocation of the existing district's property between the remaining district and the new district in accordance with Subsection (4)(c)(ii).

(B) The transition teams shall determine the allocation under Subsection (4)(c)(i)(A) before July 1 of the year following the election at which voters approve the creation of a new district, unless that deadline is extended by the mutual agreement of:

(I) the school district board of the remaining district; and

(II) (Aa) the legislative body of the city in which the new district is located, for a new district located entirely within a single city; or

(Bb) the legislative bodies of all interlocal agreement participants, for each other new district.

(ii) Subject to Subsection (4)(c)(iii), all property of the existing district, both tangible

and intangible, real and personal, shall be allocated between the existing district and the new district in a way that is fair and equitable to both the existing district and the new district, taking into account:

(A) the relative student populations between the existing district and new district;

(B) the relative assessed value of taxable property between the existing district and the new district;

(C) the historical amount of property used to deliver educational services to students in the existing district and the new district; and

(D) any other factors that the transition teams consider relevant in dividing the property in a fair and equitable manner.

(iii) (A) The transition teams shall allocate school buildings and associated property used primarily to provide educational services to local residents and not serving district-wide purposes to the school district in which the buildings are geographically located after the creation of the new district.

(B) Except as provided in Subsection (4)(c)(iii)(A), nothing in this Subsection (4)(c) may be construed to limit the ability of the transition teams to:

(I) provide that an existing district's property be shared by a remaining district and new district;

(II) determine, by mutual agreement, that the value of the school buildings and associated property described in Subsection (4)(c)(iii)(A) may be excluded from consideration in the asset allocation process under this Subsection (4)(c); or

(III) provide for any other arrangement with respect to existing district property that is beneficial to and in the best interests of the remaining district and new district.

(d) (i) Each disagreement between the transition teams about the proper allocation of property between the districts shall be resolved by binding arbitration to a three-member arbitration panel.

(ii) Each transition team shall appoint one member to an arbitration panel under this Subsection (4)(d), and those two members shall appoint a third member.

(iii) The costs of arbitration shall initially be borne entirely by the existing district, but the new district shall reimburse the existing district half of those costs within one year after the new district begins providing educational services.

(e) Each decision of the transition teams and of the arbitration panel resolving a disagreement between the transition teams is final and binding on the boards of the existing district and new district.

(f) (i) All costs and expenses of the transition team that represents a remaining district shall be borne by the remaining district.

(ii) All costs and expenses of the transition team that represents a new district shall:

(A) initially be borne by:

(I) the city whose legislative body appoints the transition team, if the transition team is appointed by the legislative body of a single city; or

(II) the interlocal agreement participants, if the transition team is appointed by the legislative bodies of interlocal agreement participants; and

(B) be reimbursed to the city or interlocal agreement participants by the new district within one year after the new district begins providing educational services.

Section 3. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.